Resolutions on Matters of General Public Interest.

The Removal of Provisions regarding the Quarrying of Laterite, etc.

President.—Let us continue the discussion of Mr. Chakko's resolution regarding free quarrying.

Mr. C. A. Kunjunni Raja.—Sir, I rise to oppose the resolution. So far as I can see, there is no specific provision in *the Land Revenue Manual* requiring the consent of the Jenmi. But if the mover of the resolution refers to the note (1) of article 87, he will find that it refers only to *pattadars*. The note runs as follows:—

"*In the case of every application for quarrying from assigned lands by a person other than by a registered* pattadar *or* inamdar, *a written statement shall invariably be taken from the* pattadar *or* inamdar, *as the case may be, agreeing to the grant of permission to the applicant for quarrying on the conditions specified in this chapter.*"

The term *pattadar* is not synonymous with the Jenmi. The term *pattadar* includes *Pandaravaka* and *Puravaka* land-holders. Strictly speaking, Jenm right is confined only to *Puravaka* lands. The Jenm rights of *Pandaravaka* lands are vested in the Sirkar. The Settlement Proclamation gives 30 years' right. Subject to those rights conferred by the Settlement, the Sirkar is the Jenmi. Nobody knows what will be the policy of the Government after 30 years.

President.—The Settlement continues for 30 years, but the right over *Pandaravaka* lands is given for ever.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—Yes, Sir. It is so.

Mr. C. A. Kunjunni Raja.—In my view, so far as the Sirkar is concerned, the *pattadar* has got certain rights on *Pandaravaka* lands, and the Sirkar has got the right to enhance the taxes on them. It is incorrect to say the *pattadar* is the Jenmi of *Pandaravaka* land.

President.—This is fixed for 30 years. During the next Settlement we do not know what we are going to do. The Government may increase or decrease the taxes. The right that has now been conferred, so far as the proprietorship is concerned, is given for ever. It will be confiscation on the part of the Government to take away that right.

Mr. N. Padmanabha Menon.—They should pay the State revenues regularly. That is the only condition.

Mr. C. A. Kunjunni Raja.—That comes under section 13 of the Settlement Proclamation which runs as follows.—

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"At present the holders of *Pandaravaka Verumpattam* lands do not possess any property on the soil. As Weare convinced that the proprietorship in the soil will induce a cultivator to improve his land and thereby add to the agricultural prosperity of the country, We hereby declare that Our *Verumpattam* holders of lands shall, after the new Settlement has been introduced, acquire full rights to the soil of the lands they hold, and that their rights shall remain undisturbed, so long *as they regularly pay the State revenue*, provided that the rights to metals and minerals possessed by the State in all lands, under whatever tenures they are held, are reserved to the State."

With regard to the *Puravaka* lands, it is dealt with under section 15 of the Settlement Proclamation. In the case of *Puravaka* lands, the Jenmi owns proprietorship over the land. So the Jenmi's right of proprietorship in *Puravaka* lands is also admitted. The landlords introduce tenants for the cultivation of the surface soil alone. The right with regard to the sub-soil rests with the Jenmi. If the tenants are allowed to remove that sub-soil without the consent of the Jenmi, the Jenmi will be deprived of his ownership of the soil.

President.—Why should the Government interfere? That is a matter of right between the landlord and the tenant.

Mr. C. A. Kunjunni Raja.—The landlords were hitherto dealing with tenants on the assumption that this proviso in *the Land Revenue Manual* existed. The Jenmi has the right to evict the tenant, if the act amounts to waste under the Tenancy Regulation. But that section applies only to a tenant of 30 years' standing. There are several other classes of tenants to whom the proviso is applicable.

President.—The Government cannot say to the tenant that he can remove the sub-soil.

Mr. C. A. Kunjunni Raja.—If that note is to be deleted, the consent of the Jenmi becomes unnecessary. The question will be whether there is "waste" by the tenant. "Prevention is better than cure." If the Jenmi refuses consent, he can avoid creating waste. Otherwise, the Jenmi has to go to a court of law, and thus get the necessary relief. So far as the Sirkar is concerned, it is thought to be absolutely necessary to protect the right with regard to minerals. It is also necessary for the Jenmi to protect the right with regard to the sub-soil, which contains many things besides metals and minerals.

President.—Let the Jenmi take the necessary measures. It is the Jenmi's look-out. Why should the Government interfere in a matter between the Jenmi and the tenant?

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Mr. C. A. Kunjunni Raja.—The function of the Government is not to protect Government property alone. The Government has the duty to protect the interests of the minorities also. The rights between the landlord and the tenant have also to be regulated by reasonable rules framed by the Government.

President.—That should be a matter of contract. Suppose, according to the terms of the contract between the Jenmi and the tenant, the tenant is entitled to be on the soil, and he is entitled to take the usufructs. If the Jenmi is inclined to give such a right to the tenant, can the Government interfere in such cases?

Mr. C. A. Kunjunni Raja.—The Jenmi will readily give his consent in such cases.

President.—Resume that right or give away that right. The Government has interest only in their own lands.

Mr. C. A. Kunjunni Raja.—So far as *Puravaka* lands are concerned, the Government deals with the Jenmi, and the Jenmi has to incur all the liabilities. For instance, penalty is levied from the *pattadar* for seriously damaging the land by indiscriminate quarrying. See rule 95.

"When permission is given, the *pattadar* should be made to understand distinctly that enhanced seigniorage fees or acreage assessment, as the case may be, will be levied to make good the permanent loss of revenue that would result in the event of relinquishment of the area which has been damaged and rendered unfit for cultivation." If the tenant removes the soil, the Government wants that action should be taken under this article, and the Jenmi is to incur all the liabilities. There is that difficulty.

Mr. I. E. Ambooken.—May I know whether the practice is to impose the fine on the man who quarries or on the Jenmi?

Mr. C. A. Kunjunni Raja.—On the Jenmi. That is the rule.

Mr. I. E. Ambooken.—I don't think it is the rule. The practice is to impose the fine on the man who quarries.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—The fine is imposed for unauthorised quarrying, etc. Nothing is given in article 95 to impose penalty. As things stand at present, it is the *pattadar* who will be fined and not the Jenmi or *Verumpattadar* or *Kanomdar*.

Mr. C. Achyuta Menon.—The Jenmi will be penalised for the damages done by the tenant.

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Mr. C. A. Kunjunni Raja.—Further, when the objects are for commercial purposes, there is absolutely no reason why the *pattadar* should not get a portion of the price of his sub-soil. It is his sub-soil that is removed. It is on these grounds that I oppose the motion.

President.—What I want to know is this. If the Jenmi wants to allow the tenant to quarry, he may do so. The Government cannot interfere in the matter.

Mr. K. Achyuta Menon.—How far that provision will be upheld, when he goes to a court of law, is doubtful. When a tenant quarries, it is the *pattadar* who is made responsible.

President.—The Jenmi has the right of sub-soil.

Mr. K. Achyuta Menon.—The tenant quarries, and the *pattadar* is made liable for the consequences. That was the interpretation put forward by the Hon'ble Jenmi Member. The *pattadar* is made liable for the acts committed by the tenant. The question whether quarrying will be a waste or not is not very easy to answer.

President.—That is necessary, so far as the sanction of the Government is concerned. But now, the question asked by the Hon'ble Member for Jenmies is whether the sanction of the Jenmi should not also be obtained for quarrying. Why should the Government insist upon this condition between the Jenmi and tenant? They can come to an agreement themselves. Why should the Government interfere in the matter, whether the Jenmi gives permission or not?

Mr. K. Achyuta Menon.—If the Jenmi's permission is necessary, why not the tenant obtain it without the intervention of the Government? The tenant may do it himself.

President.—It is the Jenmi's look-out. One cannot quarry a large extent of land in one day. There is also a safeguard, as an injunction can be applied for, if necessary. Who will be liable for the taxes?

Mr. N. Padmanabha Menon.—The *pattadar* is liable for the taxes.

President—Suppose he refuses.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—The Government will lose the revenue then.

Mr. N. Padmanabha Menon.—Sir, I oppose the resolution. Though I am in entire sympathy with the objects underlying the resolution, there are practical difficulties in working it, if passed by the Council. I am unable to recommend this resolution to the acceptance of this House. There are two considerations involved.

Mr. M. K. Raman.—A point of order, Sir. This is a resolution from the Hon'ble Member for Vadakkancheri. I

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have to make a slight amendment in that. The resolution as it stands is "that the provision to obtain sanction from the Government and the Jenmi for quarrying may be deleted". My amendment is that the word "Jenmi" in this amendment may be omitted. Permission may be obtained from the Government, and the permission of the Jenmi can be dispensed with. There is considerable difficulty for the tenant to obtain permission from the Jenmi. In many a case the Jenmi exacts a greater amount from the tenant. I submit it is purely a matter between the Jenmi and the tenant. If the Jenmi is in any way prejudicially affected by the quarry, he has got his own remedy against the tenant. The delay that is being caused for the Land Revenue authorities to dispose of petitions is simply because that they find it very difficult to get co-operation from the Jenmies. The provision to obtain sanction from the Government alone need be retained. This will serve the purpose for which it is intended.

President.—You just bring it to the notice of the House in an amendment proposed by you.

Mr. M. K. Raman.—I am only just pointing out an amendment.

President.—I allow Mr. Padmanabha Menon to proceed.

Mr. T. A. Ramachandra Ayyar.—Is there any provision in the Travancore Tenancy Regulation with regard to this?

President.—We are dealing with *the Land Revenue Manual* and not with the Tenancy Regulation now.

Mr. N. Padmanabha Menon.—There are two kinds of relationship that are affected by the present resolution. One is the relation between the Sirkar and the Jenmi, and the other is the relationship between the Jenmi and the tenant. This resolution will disturb the relationship contemplated by the Settlement Proclamation between the Sirkar and the Jenmi. I oppose both the amendment and resolution. It will be highly dangerous, if not, absolutely illegal. If armed with a resolution of this House, the Sirkar now says to the Jenmi:—"You should not have any voice in allowing or disallowing the tenant to quarry the land held by him". This is the difficulty. It is a matter yet to be decided whether the Government has the right to say so before the 30 years contemplated by the Settlement Proclamation are over. It is only after this period that Government can step in and tell the Jenmi that they are going to take away from him the right vested in the Jenmi by the Proclamation of His Highness. As to the relationship between the Jenmi and tenant, it is a matter of contract. This House need not step in and dictate the terms of the contract.

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Another question that arises is whether the Jenmi has got sufficient remedies in a court of law to prevent the tenant from quarrying. If the tenant quarries without the Jenmi's consent, has the Jenmi sufficient remedies in a court of law? These are very intricate questions. The process of law is generally very slow, and in some cases the extent of trouble that devolves both on the Jenmi and on the tenant by going to a court of law will far surpass the expenses a tenant will have to incur in getting the sanction from the Government. Moreover, we have seen from the answers given by the Hon'ble Revenue Member to the question 7 of the previous session that the revenue derived to the Government in the shape of quarrying fees is absolutely negligible. So it cannot be said that this is a source of revenue to the State. There may be or may not be some disadvantages incidental to the existence of such a rule in *the Land Revenue Manual*. To remove all disadvantages incidental to the rules and especially the disadvantages incidental to this affair will be beyond human endeavour. On this account, I oppose the resolution.

Mr. M. Krishna Menon.—I rise to oppose the resolution. There is absolutely no connection between the Government and the tenant. The Government can recognise only the *pattadar*. If this resolution is accepted, three parties come in, viz., the Government, *pattadar* and the tenant. So far as the Government is concerned, the Government cannot afford to take the list of all the tenants of all the assigned lands. Even if a list is made, how can the Government know the conditions of tenancy in each individual case? So I say that only on the application of the *pattadar* the Government can consent to quarrying, or when all the parties jointly make the application. The Government has to look only to the *pattadar* whose name is with the Government, and he must be presumed to be the occupier of the land. Without taking the consent of the *pattadar*, the Government will not be justified in allowing a third party to enter upon his land and to quarry. The Revenue Officer cannot be expected to know the terms and conditions of each tenancy. The Government has to look only to the *pattadar*, and without his consent, no quarrying can be allowed on his land.

President.—Then, what will be the effect? *The Land Revenue Manual* will stand as it is.

Mr. I. E. Ambooken.—Before entering into the subject, I wish to explain matters. Sanction is obtained from the Jenmi, as the lands will be injured to some extent by quarrying, and the Jenmi may have his objections with regard to this, as he is liable for the payment of taxes. Before quarrying is done, the Jenmi

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is asked whether he has any objection regarding the damage that may be done to the land. The property of the sub-soil is entirely vested with the Government, and the Government is the sole proprietor of the soil. The Jenmi has no ownership of the sub-soil. The statement of the Jenmi is required, since he is primarily responsible for the taxes, and as damages are likely to be done to the land while quarrying. This is the practice that is going on now. If any one wants to quarry, the first application should go to the Tahsildar. The Tahsildar through Village Officers asks the Jenmi whether he has any objections. Whether it may be for quarrying or for any other purpose, the Jenmi is only liable for the taxes. Since he is responsible for the tax, his sanction also is to be obtained. Otherwise, he will not be responsible for the taxes.

President.—Suppose the Jenmi say that, if any quarrying is done, the land will be rendered useless for other purposes, and sanction for quarrying is refused. What is the remedy?

Mr. I. E. Ambooken.—When the Jenmi considers that damages will be done to his land, he can refuse sanction. But the Government has to see to that statement. I am sorry I cannot support this motion. It is stated in the resolution that there is considerable hardship caused to the ryots for quarrying, and I perfectly agree with that statement. There are several technicalities underlying the provision for getting the sanction from the Government. First, he has to send a petition to the Tahsildar by affixing a stamp. Then it goes to the Village Officer. With him it will be pending for several days. Generally, there is a rule that the petition should be disposed of within 15 days. But it is not the practice now. If it is the land of a Jenmi, it will create trouble further. Anyhow, the sanction is required. It cannot be asked by anybody to take away the power of sanction from the Government. Perhaps, damages may be done to the land and the soil, and what the Hon'ble Member for Revenue explained yesterday is justifiable. I agree with him. With regard to the difficulties of the ryots, there are considerable matters to be discussed. The remedy that is wanted is not what is stated in the resolution. So until a proper remedy comes, I oppose this resolution.

President.—Mr. Raman, you may speak on your amendment.

Mr. M. K. Raman.—The objection seems to be about the ownership of the sub-soil. Therefore, if anybody wants to remove the minerals by quarrying, the Jenmi's consent is to be obtained. That seems to be the trend of the argument of the learned Member for the Jenmies. My submission is that, whether it be

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the Jenmi or the tenant, and under whatever right they may hold, all the sub-soil belongs to the Government. It is only the surface that the Jenmi is entitled to. With regard to all minerals and to everything that is underneath the earth, the ownership is in the Government. It is meaningless for the tenant to ask for the permission of the Jenmi to quarry the minerals which do not belong to the Jenmi. It is only the Government's permission that is necessary.

President.—Some Jenmies allow quarrying from *poram boke* lands. Is there any difference?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—Quarrying from *poramboke* lands is charged. For Jenmis' lands, unless it is for commercial purposes, on a large scale, nothing is charged.

Mr. M. K. Raman.—What I want to understand is whether it is only the right of the superficial soil that is given to the Jenmi, and whether the right of the mineral is reserved with the Government.

President.—But then, why do you make a distinction between the fee that is paid?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—We do not make a distinction; absolutely none in the case of quarrying private lands. In regard to *poramboke* lands, the position is quite different. There the property belongs to the Government. In respect of the quarrying of private lands, our primary object is to give sanction only after enquiring that no detriment to land or danger to the public is caused. But if it is done on a large scale, for commercial purposes, then, we charge a small fee.

President.—Do you enquire whether the sub-soil belongs to the Government or not?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—There is no necessity for that. What is done is this. Land Revenue is a definite fraction of the produce of the land. If the surface is very seriously interfered with and rendered unfit for surface cultivation, there is a chance of the Jenmi losing by way of the value of the property. He loses his rent. We have got only to see that the surface portion of the property is not very seriously tampered with. If serious interference is made either by the tenant or the Jenmi or any people who quarry from it, it may cause detriment, firstly, to the tenant's crops; secondly, to the Jenmi in the shape of rent, and thirdly, to the Government in the shape of assessment.

President.—I ask you whether in a Jenmi's land the sub-soil belongs to the Jenmi or to the Government. That is a point that has now been raised,

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Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—That is a very controversial question. We do not admit any kind of right to a Jenmi in a sub-soil. I cannot now say what the relative rights of the Jenmies and tenants are. We have certain principles, which we follow in every day administration. I do not know whether we can now enter into a controversy over the matter. I respectfully submit that the question of relative rights of the Crown and the Jenmi to metals and minerals is controversial matter. I am afraid we will not be able to discuss that now. I have explained the whole position.

In the first article (85) of Chapter IV, relating to quarrying, it is written that the application should proceed from the *pattadar* to the *Inamdar*, and we were insisting on it for a very long time. For the first time, it was in 1087 in connection with the bunding up of the *Kole* lands, that some people from Aranattukara and Pulakkal Desoms came to me and complained to the following effect.—"We want to start *Kole* cultivation tomorrow. We want to protect our bunds; there is dispute between the *Kanamdars* and the Jenmi". Then our officers told them:—"You better go to the Jenmi and ask him to put in an application". They replied:— "it is impossible for us to get the consent of the Jenmi. He is in British Malabar or somewhere else." They further said:"We are sure we will get the Jenmi's consent". Then, we said :—"So far as we are concerned, we give you consent. You may get the Jenmi's sanction, without which you cannot get into the land." Subsequently, this procedure was ratified in the form of a note to article 87. If you read the articles through, you will see that the Government wants only an application from the *Inamdar* or the *pattadar*. That rule in actual practice was found to work hard and to cause delay, when earth has to be taken for the bunding up of the *varamboos*. The Jenmi was not available on the spot. I was in a fix. We must allow the tenants to cultivate the *Kole* lands anyhow. So I said :—"If you are sure of getting the Jenmi's sanction, we have no objection. You must settle the whole matter with the Jenmies. You should get your action ratified by the Jenmies".

Mr. M. K. Raman.—The first paragraph in Chapter IV in *the Land Revenue Manual* speaks about the right to metals.

"The rights to metals and minerals in all lands, under whatever tenures they are held, are reserved to the State; and in the *pattas* issued by the Settlement Department for lands held under *Pandaravaka Verumpattom*, *Panaaravaka Kanam* and *Puravaka* tenures, separate clauses are inserted to the effect that the assessment entered in the *pattas* represents only the commuted value of the Darbar's share of the produce on surface cultivation.....".

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So my submission is that whether he be a Jenmi or a tenant, whoever that occupies the land gets only the right of use of the surface. The right of all minerals is with the Government. There can be no doubt about that. Certainly, the Government can lay claim upon that.

President.—There is the Treasure Trove Regulation.

Mr. M. K. Raman.—The right of the minerals belongs to the Government, and it is only reasonable that the Government is interested in seeing that the minerals are excavated in any undesirable way. They should also see that the surface is not spoiled but is kept intact; and therefore, it becomes necessary to get the Government's permission, for without such permission, if quarrying is carried on, it may sometimes be harmful. Of course, it has been pointed out that the surface may come down, and if damage is done to the surface, the Government will not be able to get their revenue. The Government's sanction will be obtained, and therefore, the Revenue authorities will see that quarrying takes place only in such a way as not to damage the surface. On that ground, there is no likelihood of any difficulty arising. My submission is that the permission of the Jenmi is entirely superfluous and unnecessary. It brings down a great number of difficulties to obtain their consent. I know as a matter of fact a number of cases where difficulties have been felt by tenants; and if the provision to obtain the permission of the Jenmies is deleted, it would serve a very useful purpose.

Mr. A. Sankara Puduval.—Sir, I am constrained to oppose both the resolution and the amendment. It will be evident from Chapter IV of *the Land Revenue Manual* that the rights over metals and minerals have been, under the Royal Proclamation, reserved to the Government. Mineral produce has been defined in *the Land Revenue Manual* in clause 86, as

"Granite stones (chiselled as well as rough), laterite stones, laterite road metals, lime stone, gravel, clay, earth and turf generally met with in the lands in the State shall be treated as mineral produce." These are the things referred to in the resolution, and these "mineral produces" are within the meaning of the Proclamation and *the Land Revenue Manual*. In respect of *Pandaravaka* and *poramboke* lands, they are at the disposal of the Government, and the Government's right is reserved. *The Settlement Manual* only contemplates applications in regard to these matters from the *pattadar*. The section lays down:—

"The working of such produce in assigned lands shall be regulated as shown hereunder".

Section 87 says:

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"Quarrying from assigned lands shall not be permitted, unless the *pattadar* or *Inamdar* concerned obtains, previous to his starting operations, the written permission of the Tahsildar of the taluk. *Pattadars* or *Inamdars* intending to undertake or permit the quarrying of stones or other mineral produce of the nature specified in articles 86 shall make a written application to the Tahsildar of the taluk, specifying the village and the survey and the sub-division numbers of the fields in which, and the produce and the purposes for which, they intend to carry on operations." Neither *the Land Revenue Manual* nor the Royal Proclamation has in contemplation any application for this purpose otherwise than by the *pattadar*; so that, if this resolution be accepted, it would have the effect of upsetting the practice as it now stands in the State under the Proclamation and *the Land Revenue Manual*. And to make matters worse section 94 says:

"*Pattadars* of lands in which quarrying is undertaken without obtaining the Tahsildar's permission as required under article 87 will be liable to be charged with enhanced seigniorage fees or acreage assessment as a penalty, even though the quarrying might have been done for *bona fide* domestic or agricultural purposes.

So that the existing rules look only to the *pattadar* for the application, and although there might often be some little trouble in regard to the sanction of the Jenmi being obtained in cutting laterite stones, etc., at the instance of a tenant for the use of the tenant, either for domestic purposes or for commercial purposes, it would be improper that the existing law should be disturbed.

So far as the Government is concerned, the matter is very clear. The Hon'ble the Revenue Member has pointed out the necessity of the control by the Government. I generally agree with the reasons given by him. There are equally cogent reasons for holding that at least for the period of thirty years contemplated by the Proclamation, the existing practice should not be disturbed. The Tenancy Regulation itself has taken away some of the rights and privileges of the Jenmies. Jenmies must have been under the impression that they would be entitled to all the privileges conferred upon them by *the Land Revenue Manual* in respect of the quarrying of laterite stones, road metals, lime stone, gravel, etc. Indeed, to enact a rule to the effect that the Jenmi's permission is unnecessary is to go against the provisions of *the Land Revenue Manual*. *The Land Revenue Manual* does not contemplate any application by a tenant. It only contemplates an application by a *pattadar*. Actually, we

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find in official practice applications made by the tenants. Strictly speaking, that is a wrong practice. The Jenmi might, perhaps, for arbitrary reasons, refuse his consent. Gravel, clay, laterite, etc., could be easily purchased elsewhere. If really the removal of laterite, clay, gravel, etc., would be beneficial to the land, the Jenmi would readily give his consent ; if, on the other hand, it would prejudicially affect the land, if it would bring income to the tenant in which the Jenmi would not be allowed to participate, it is only fair that he should be given a controlling hand in this matter. When a land is leased, the Jenmi does not allow the tenant to take whatever lies under the soil. The lands are leased out in respect of the yield on the surface soil and not in regard to anything obtainable from the sub-soil and in regard to minerals. Minerals and metals, of course, belong to the Government. I am not aware of many instances in which the Jenmies have withheld their consent in this behalf. But taking the balance of convenience and hardships viewed from standpoint of the *pattadar* and also from that of the tenant, it would be undesirable that the existing law should be disturbed, or even amended till the thirty years stipulated in the Proclamation expire. On these grounds, I oppose the resolution.

മിസ്റ്റർ പി. കുഞ്ഞുമഹമ്മദ്.—സർ, ഈ പ്രമേയത്തെ ഞാൻ ബലമായി എതിർക്കുന്നു. ഇതിന്റെ ആകെ സാരം ഏതെങ്കിലും ഒരു ഭൂമിയിൽ യാതൊരു അവകാശവും ഇല്ലാത്ത ഒരാളിനെ മറ്റാരെങ്കിലുമൊ, യഥേഷ്ടം പ്രവേശിച്ചു് എന്തും പ്രവൃത്തിക്കുന്നതിനു് ഒരു സന്ദർഭം അല്ലെങ്കിൽ ഒരു അനുവാദം മുൻകൂട്ടി കിട്ടണമെന്നാണു്. അങ്ങിനെയുള്ള ഒരു അപേക്ഷമാത്രമാണു് ഈ പ്രമേയം. ഇതു് ഒരിക്കലും ഒരുവിധത്തിലും നീതീകരിക്കത്തക്കതല്ല. ഇപ്പോൾ ഒരു രാജ്യത്തു് താമസിക്കുന്ന ഒരാളിനു് അന്യരാജ്യത്തു് ഒരു ഭൂമി ഉണ്ടെന്നു വെക്കുക. ആ ഭൂമിയിലെ കുടിപാപ്പകാരനു് മറ്റാരെയാൾം—ഉടമസ്ഥൻ—അറിയാതെ ആ ഭൂമിയിൽ എന്തുംചെയ്തു കൊള്ളാൻ ഒരു സന്ദർഭം ലഭിക്കുകയാണു്. ഈ പ്രമേയം പാസ്സാക്കുന്നതുകൊണ്ടു് ഉണ്ടാകുന്നതു്.

ആ ഭൂമിയെ സംബന്ധിച്ചേടത്തോളം ഗവർമ്മേണ്ടിൽനിന്നും പട്ടയക്കാരന്റെ അവകാശത്തെ മാത്രമേ അംഗീകരിക്കയുള്ളൂ. അല്ലാതെ ഗവർമ്മേണ്ടു് അംഗീകരിക്കാത്ത ഒരാളിനു് അംഗീകരിക്കപ്പെട്ട ഒരാളിന്റെ അനുവാദം കൂടാതെ അതിൽ പ്രവേശിച്ചു് യഥേഷ്ടം പ്രവർത്തിക്കുന്നതിനുള്ള ഒരു അവകാശം—അനുമതി—നല്കുക എന്നതു് യാതൊരു നീതിശാസ്ത്രത്തിനും യോജിച്ചതല്ല.

മിസ്റ്റർ എം. കെ. രാമൻ.—ഗവർമ്മേണ്ടിന്റെ അനുമതിയോടുകൂടിയേ പ്രവേശിക്കൂ.

മിസ്റ്റർ പി. കുഞ്ഞുമഹമ്മദ്.—ഗവർമ്മേണ്ടിനോടു ചോദിച്ചുകൊണ്ടു് കാര്യമായില്ല. ഗവർമ്മേണ്ടിനു് ഭൂമിയുടെ പട്ടയദാർ ഇന്നാരാണെ

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ന്ന് മാത്രമേ അറിഞ്ഞുകൂടൂ. ഭൂമിയുടെ കൈവശക്കാരാരെന്നും, അയാൾതാ മസിക്കുന്നതെവിടേയെന്നും അറിവുണ്ടായിരിക്കയില്ല. അതുകൊണ്ട് ശരിയായും ഉടമസ്ഥന്റെ അനുവാദം അത്യാവശ്യമാണ്. അതിനാൽ ബോധിച്ചപോലെ ചെയ്യാമെന്നുള്ള ഈ പ്രമേയം പാസ്സാക്കാൻ പാടില്ല.

മിസ്റ്റർ ഐ. ഇ. അമ്പൂക്കൻ.—എന്തൊക്കെയാണ് ബോധിച്ചതുപോലെ ചെയ്യുന്നത്?

മിസ്റ്റർ പി. കുഞ്ഞുമഹമ്മദ്.—ബോധിച്ചപോലെ മണ്ണുമാന്തുക, കുളം കുഴിക്കുക, കല്ലുവെട്ടുക മുതലായതൊക്കെ ചെയ്യാവുന്നതാണല്ലൊ?

മിസ്റ്റർ എം. കെ. രാമൻ.—അതൊക്കെ ഗവർമ്മേണ്ടിന്റെ അനുമതി വാങ്ങിക്കൊണ്ടേ ചെയ്യുകയുള്ളൂ.

മിസ്റ്റർ പി. കുഞ്ഞുമഹമ്മദ്.—പാട്ടയദാരന്മാരുടെ അനുമതിയോടുകൂടി ചെയ്താൽ എന്താണ് വിരോധം? ആവശ്യമുള്ള കാര്യങ്ങൾ അങ്ങനെങ്കിൽ ജന്മിമാർ അനുവദിക്കാതിരിക്കയില്ല. ഉടമസ്ഥൻ അറിയാതെ ഭൂമിയിൽ കടന്ന് വല്ലതും പ്രവൃത്തിക്കണമെന്ന് വിചാരം ഇല്ലാതിരുന്നുവെങ്കിൽ ഈ പ്രമേയം തന്നെ ഇവിടെ കൊണ്ടുവരികയില്ലായിരുന്നു. (ചിരി.)

മിസ്റ്റർ ടി. എ. രാമചന്ദ്രയ്യർ.—സാധുവായ ഒരു കുടിയാനവന്ന് വീടുവയ്ക്കാൻ മണ്ണും കല്ലും ആവശ്യപ്പെട്ടാൽ കൊടുക്കുന്നതിന് ജന്മിക്ക് ഭാവമില്ലെങ്കിൽ ആ സാധു കുടിയാനവൻ എന്തുചെയ്യും?

മിസ്റ്റർ ടി. കെ. കൃഷ്ണമേനോൻ.—വിലയ്ക്ക് വാങ്ങണം.

മിസ്റ്റർ ടി. എ. രാമചന്ദ്രയ്യർ.—സാധു ആകകൊണ്ടു വെളിയിൽ പോയി വിലകൊടുത്തു കൊണ്ടുവരാൻ സാധിക്കയില്ല. അപ്പോൾ അയാൾ എന്തു ചെയ്യേണമെന്നാണ് ഞാൻ ചോദിച്ചത്.

പ്രസിഡെണ്ട്.—ആ കുടിയാനവൻ അവിടെ താമസിക്കുന്നതു ഭൂമിക്കു ഉണകരമാണെന്നുണ്ടെങ്കിൽ തീച്ചയായും ജന്മി അനുവദിക്കാതിരിക്കയില്ല.

മിസ്റ്റർ ടി. എ. രാമചന്ദ്രയ്യർ.—തെറ്റിദ്ധാരണകൊണ്ടും ജന്മികൾക്ക് കുടിയാനവന്മാരോട് ഇഷ്ടമില്ലാതെ വന്നേയ്ക്കും. ജന്മികൾ കുടിയാന്മാർക്ക് ഈ വക ദോഷങ്ങൾ ഒന്നും ചെയ്കയില്ലെന്ന് ബഹുമാനപ്പെട്ട റെവന്യു മെമ്പർ പറയുകയുണ്ടായി. അതിനെ അടിസ്ഥാനമാക്കിയാണ് ഈ ചോദ്യം ചോദിച്ചത്.

President.—Have you anything to say by way of reply, Mr. Chakko?

Mr. Chakko Cheruvattur.—I have no objection in accepting the amendment brought in by the Hon'ble Member for the South Ezhuva Constituency. Now, I think I have to explain certain matters, with regard to this. What generally takes place now is that a tenant puts in an application in the Taluk Office. That is forwarded to the Village Offices, and the Village Officers have to go in search of the Jenmi. Generally, they find

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it very difficult, especially, when the Jenmi is beyond the jurisdiction of the Taluk Office; and suppose he finds out the man. Then, of course, generally, the Jenmi will have to see the tenant, before he gives his consent. In many instances the Jenmi does not reside within the jurisdiction of the place where the tenant wants to quarry stones. Generally, the Jenmi will be far away in the British parts and other taluks. That causes delay and inconvenience in obtaining sanction. Now, as the Hon'ble Member for the Mussalman Constituency suggested, I had absolutely no idea of the tenant's doing any work in the shape of plunder upon the Jenmi's land, but I only wanted to remove some of the disabilities under which tenants labour, because, as I stated yesterday, out of one thousand and odd applications, only 178 were replied to within 15 days in the Talappalli Taluk. All the others were replied to after the time. This has been correctly explained by the Revenue Member. The Talappalli Taluk contains more Jenmies than any other taluk. That shows the delay in the disposal of the other applications. In all other taluks it does not seem to work so much hardship. Here 400 and odd applications have been kept on for 2 months, before sanction could be given. 134 and odd applications had to be kept on for 6 months. Then, 100 applications were rejected in the Talappalli Taluk. They were for the following reasons: (1) the objection of the *pattadar* and (2) the withdrawal of the applications. I think the rejected applications that come under the second category will be very small. Those that come under the first will form the majority. Then, generally, when the Jenmi is approached, he does not care whether sanction is given to a tenant who is living far away from his house. He does not know the tenant. He does not also know the circumstances under which the tenant is placed; so that he does not care whether the tenant built a house or whether the tenant starves. The difficulty arises chiefly in that way.

Then, with regard to the objections of the Jenmi Member, I have to state once again that this *Land Revenue Manual* came into vogue before the Tenancy Regulation was passed, and by the Tenancy Regulation a permanent right of occupancy has been given to the tenant.

Mr. C. A. Kunjunni Raja.—Not at all.

Mr. Chakko Cheruvattur.—Anyhow, tenants who have held the tenure for 30 years—say *Kanam* tenants. With regard to the others, the Jenmi is at perfect liberty to evict them. So that, that does not injure the Jenmies in any way. With regard to the tenants of less than 30 years and others, the Jenmi is at perfect liberty to evict them. The trouble is with those tenants

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who have held for more than 30 years. The Hon'ble Member was harping much upon the waste committed by the *Kudiyan*. We will take the converse case. Suppose there is a holding in the possession of the tenant who has held it for 30 years, and that, without doing quarrying, it is unfit for cultivation. For, that he must get the sanction of the Jenmi. How is the Jenmi benefitted by giving the sanction for quarrying in that land? The Jenmi is not at all benefitted. The Jenmi is indifferent, and the cultivator is discouraged by that means. When we take the Jenmi Member's objection into consideration, we have to take into consideration the opposite side also.

Then, one more point. It was stated by the Hon'ble Member for Mulakunnattukavu that the Jenmi will have to be penalised for the fault of the *Kudiyan*. The Jemmies, as I stated, have got sufficient safeguards under the Tenancy Regulation, and further, the relationship of the Jemmi and the *Kudiyan* makes both interdependent not only in this but in many other respects. For, through the default on the part of the Jenmies, the crops of a tenant who has been all along paying his tax are attached. Suppose the Jenmi is residing somewhere in British parts, and that he, by some mistake or other, neglects to pay the tax. The tenant who has been very regular in his payment of tax is troubled by the attachment of his crops by the Government, and he is to go to a court of law to get his remedy, to get back the amount of tax which he paid for his Jenmi; so that both these are interdependent upon each other. Of course, they must join together in making matters go on smoothly. The Hon'ble Member for Trichur stated that the Jenmies do not generally withhold sanction. With regard to the people of Talappalli, I profess to know a little more than the Hon'ble Member for Trichur. At any rate, it is very general in that taluk. At any rate, in that taluk it is generally very harshly exercised by the Jenmies. So that the balance of convenience is shifted. It is the tenant that is put to very great inconvenience by the retention of these provisions. And I have not the slightest objection in the Government making any provision in *the Land Revenue Manual* for prosecuting people who have already been given sanction by the Government, for quarrying near public roads, canals and other public places. All those safeguards can be had. No doubt metals and minerals belong to the Crown. What I have to say with regard to the fact that metals and minerals are included in the Proclamation is that the Government has got every power to exempt certain metals and minerals. Whether laterite, earth, clay and such other things come within the expression, "metals and minerals", is itself questionable.

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And further, the Government has already exempted in a subsequent provision such materials by allowing potters to take clay, etc., without sanction.

Dr. A. R. Menon.—Is it too late, Sir, to ask a question to the Revenue Member? According to this rule, suppose a tenant does quarrying work, and if the Government gets information that it is done for commercial purposes, would he be exempted?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—No.

Dr. A. R. Menon.—Do you make any difference between laterite quarrying for building one's own house and for selling purposes?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—If quarrying is conducted for building one's own house, premission is given free.

President.—The original resolution runs thus: "In view of the great hardship caused to the subjects of the State by the provision that sanction should be obtained for quarrying laterite stones, gravel, clay, earth, and turf, this Council recommends to the Government that the provision to obtain sanction from the Government and the Jenmi for quarrying the above materials may be deleted from *the Land Revenue Manual*, and that their quarrying may be made free and without sanction."

The resolution, as proposed to be amended, would read thus:—"In view of the great hardship caused to the subjects of the State by the provision that sanction should be obtained for quarrying laterite stones, gravel, clay, earth and turf, this Council recommends to the Government that the provision to obtain sanction from the Jenmi for quarrying the above materials may be deleted from *the Land Revenue Manual*, and that their quarrying may be made free and without sanction."

Having considered the resolution and the amendment carefully, I think it desirable to put the amendment to votes.

The amendment was put to votes and lost.

Partial Holiday for New Moon.

Mr. T. A. Ramachandra Ayyar.—I beg to move that *this Council recommends to the Government that the ordinary business in all public offices and educational institutions be commenced from 2 p. m. on every New Moon day.*

Amavasya day is very important for the Hindus, especially to Brahmins. It is what is called a '*Pitri*' day, literally, a day for performing *Sradha* (Anniversary). The sacredness and importance of the *Sradha* day amongst the Hindus as a class are only too well-known to require any special mention. The

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